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REFERENCE TITLE: **tax credit; renewable energy**

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2570

Introduced by
Representative Mason

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1182; RELATING TO INDIVIDUAL AND CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

5 Each year the joint legislative income tax credit review committee
6 shall review the following income tax credits:

7 1. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

8 2. In 2005, sections 43-1087, 43-1088 and 43-1175.

9 3. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
10 43-1090, 43-1176 and 43-1181.

11 4. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
12 43-1166, 43-1167 and 43-1169.

13 5. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
14 43-1178.

15 6. In 2009, sections 43-1076 and 43-1162.

16 7. IN 2010, SECTIONS 43-1083.01 AND 43-1182.

17 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
18 amended by adding section 43-1083.01, to read:

19 43-1083.01. Credit for electricity production from qualified
20 energy resources; definition

21 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2005, A
22 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER WHO
23 PRODUCES ELECTRICITY FROM QUALIFIED ENERGY RESOURCES AND SELLS THE PRODUCED
24 ELECTRICITY TO ANOTHER PERSON. THE AMOUNT OF THE CREDIT IS EQUAL TO THE
25 TOTAL KILOWATT HOURS OF ELECTRICITY PRODUCED BY THE TAXPAYER FROM QUALIFIED
26 ENERGY RESOURCES MULTIPLIED BY ONE AND ONE-HALF CENTS.

27 B. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
28 TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
29 TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY
30 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
31 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

32 C. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
33 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
34 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
35 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
36 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
37 ALLOWED A SOLE OWNER.

38 D. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED ENERGY RESOURCES"
39 MEANS CLOSED-LOOP BIOMASS, GEOTHERMAL ENERGY, MUNICIPAL SOLID WASTE,
40 OPEN-LOOP BIOMASS, SMALL IRRIGATION POWER, SOLAR ENERGY OR WIND. FOR THE
41 PURPOSES OF THIS SUBSECTION:

42 1. "CLOSED-LOOP BIOMASS" MEANS ANY ORGANIC MATERIAL FROM A PLANT THAT
43 IS PLANTED EXCLUSIVELY FOR PURPOSES OF BEING USED AT A FACILITY TO PRODUCE
44 ELECTRICITY.

45 2. "GEOTHERMAL ENERGY" MEANS ENERGY THAT IS DERIVED FROM A GEOTHERMAL
46 DEPOSIT.

3. "MUNICIPAL SOLID WASTE" MEANS ANY GARBAGE, REFUSE, SLUDGE FROM A WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT OR AIR POLLUTION CONTROL FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID OR SEMISOLID MATERIAL OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL, MINING OR AGRICULTURAL OPERATIONS OR FROM COMMUNITY ACTIVITIES. SOLID WASTE DOES NOT INCLUDE SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE OR SOLID OR DISSOLVED MATERIALS IN IRRIGATION RETURN FLOWS OR INDUSTRIAL DISCHARGES.

4. "OPEN-LOOP BIOMASS" MEANS ANY AGRICULTURAL LIVESTOCK WASTE NUTRIENTS OR ANY SOLID, NONHAZARDOUS, CELLULOSIC WASTE MATERIAL THAT IS SEGREGATED FROM OTHER WASTE MATERIAL AND THAT IS DERIVED FROM FOREST RELATED RESOURCES, SOLID WOOD WASTE MATERIALS OR AGRICULTURAL SOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "AGRICULTURAL LIVESTOCK WASTE" MEANS AGRICULTURAL LIVESTOCK MANURE AND LITTER, INCLUDING WOOD SHAVINGS, STRAW, RICE HULLS AND OTHER BEDDING MATERIAL THAT IS USED FOR THE DISPOSITION OF MANURE.

5. "SMALL IRRIGATION POWER" MEANS POWER THAT IS GENERATED WITHOUT ANY DAM OR IMPOUNDMENT OF WATER THROUGH AN IRRIGATION SYSTEM CANAL OR DITCH AND THAT HAS A NAMEPLATE CAPACITY RATING THAT IS MORE THAN ONE HUNDRED FIFTY KILOWATTS BUT LESS THAN FIVE MEGAWATTS.

Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1182, to read:

43-1182. Credit for electricity production from qualified energy resources; definition

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2005, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER WHO PRODUCES ELECTRICITY FROM QUALIFIED ENERGY RESOURCES AND SELLS THE PRODUCED ELECTRICITY TO ANOTHER PERSON. THE AMOUNT OF THE CREDIT IS EQUAL TO THE TOTAL KILOWATT HOURS OF ELECTRICITY PRODUCED BY THE TAXPAYER FROM QUALIFIED ENERGY RESOURCES MULTIPLIED BY ONE AND ONE-HALF CENTS.

B. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

C. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

D. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED ENERGY RESOURCES" MEANS CLOSED-LOOP BIOMASS, GEOTHERMAL ENERGY, MUNICIPAL SOLID WASTE, OPEN-LOOP BIOMASS, SMALL IRRIGATION POWER, SOLAR ENERGY OR WIND. FOR THE PURPOSES OF THIS SUBSECTION:

1. "CLOSED-LOOP BIOMASS" MEANS ANY ORGANIC MATERIAL FROM A PLANT THAT IS PLANTED EXCLUSIVELY FOR PURPOSES OF BEING USED AT A FACILITY TO PRODUCE ELECTRICITY.

1 2. "GEOTHERMAL ENERGY" MEANS ENERGY THAT IS DERIVED FROM A GEOTHERMAL
2 DEPOSIT.

3 3. "MUNICIPAL SOLID WASTE" MEANS ANY GARBAGE, REFUSE, SLUDGE FROM A
4 WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT OR AIR POLLUTION CONTROL
5 FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID OR SEMISOLID
6 MATERIAL OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL,
7 MINING OR AGRICULTURAL OPERATIONS AND FROM COMMUNITY ACTIVITIES. SOLID WASTE
8 DOES NOT INCLUDE SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE OR SOLID OR
9 DISSOLVED MATERIALS IN IRRIGATION RETURN FLOWS OR INDUSTRIAL DISCHARGES.

10 4. "OPEN-LOOP BIOMASS" MEANS ANY AGRICULTURAL LIVESTOCK WASTE
11 NUTRIENTS OR ANY SOLID, NONHAZARDOUS, CELLULOSIC WASTE MATERIAL THAT IS
12 SEGREGATED FROM OTHER WASTE MATERIAL AND THAT IS DERIVED FROM FOREST RELATED
13 RESOURCES, SOLID WOOD WASTE MATERIALS OR AGRICULTURAL SOURCES. FOR THE
14 PURPOSES OF THIS PARAGRAPH, "AGRICULTURAL LIVESTOCK WASTE" MEANS AGRICULTURAL
15 LIVESTOCK MANURE AND LITTER, INCLUDING WOOD SHAVINGS, STRAW, RICE HULLS AND
16 OTHER BEDDING MATERIAL THAT IS USED FOR THE DISPOSITION OF MANURE.

17 5. "SMALL IRRIGATION POWER" MEANS POWER THAT IS GENERATED WITHOUT ANY
18 DAM OR IMPOUNDMENT OF WATER THROUGH AN IRRIGATION SYSTEM CANAL OR DITCH AND
19 THAT HAS A NAMEPLATE CAPACITY RATING THAT IS MORE THAN ONE HUNDRED FIFTY
20 KILOWATTS BUT LESS THAN FIVE MEGAWATTS.

21 Sec. 4. Purpose

22 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
23 enacts sections 43-1083.01 and 43-1182, Arizona Revised Statutes, as added by
24 this act, to encourage taxpayers to produce electricity from renewable energy
25 resources in this state.